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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/037,701	11/09/2001	Richard M. Weiss	WR-2	7539
1473	7590	08/09/2004	EXAMINER	
FISH & NEAVE				CHAPMAN JR, JOHN E
1251 AVENUE OF THE AMERICAS				PAPER NUMBER
50TH FLOOR				2856
NEW YORK, NY 10020-1105				

DATE MAILED: 08/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/037,701	WEISS ET AL. <i>JK</i>
	<b>Examiner</b>	<b>Art Unit</b>
	John E Chapman	2856

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 2 MONTH(S) FROM  
 THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 24 May 2004.
- 2a) This action is FINAL.                    2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-140 is/are pending in the application.
- 4a) Of the above claim(s) 15-26,41-52,67-79,94-99,114-119 and 134-140 is/are withdrawn from consideration.
- 5) Claim(s) 1-14,27-40,53-66,80-93,100-113 and 120-133 is/are allowed.
- 6) Claim(s) \_\_\_\_\_ is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) All    b) Some \* c) None of:
    1. Certified copies of the priority documents have been received.
    2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
 Paper No(s)/Mail Date 11/9/01; 12/11/02; 10/29/02.
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application (PTO-152)
- 6) Other: \_\_\_\_\_

**DETAILED ACTION**

1. Applicant's election with traverse of Group I in the reply filed on May 24, 2004 is acknowledged. The traversal is on the ground(s) that each invention is better characterized as "a method and apparatus for determining a preferred angular orientation of a structural member." While each invention may be characterized as "a method and apparatus for determining a preferred angular orientation of a structural member" not limited to a golf club, the restriction is based upon the presentation of claims directed to subcombinations usable together in a single combination. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement itself, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 21-26, 47-52, 73-79, 94-99, 114-119 and 134-140 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on May 24, 2004.
3. Claims 1-14, 27-40, 53-66, 80-93, 100-113 and 120-133 are allowed.
4. The following is an examiner's statement of reasons for allowance: The prior art fails to teach and/or fairly suggest a method and apparatus for determining a preferred angular orientation of a structural member, such as a golf shaft, wherein one end of the member is immobilized and the other end is vibrated in each of a plurality of vibration planes, the maximum

out-of-plane displacement is measured for each vibration plane and analyzed, and the preferred angular orientation is calculated from the analyzed measured displacements.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

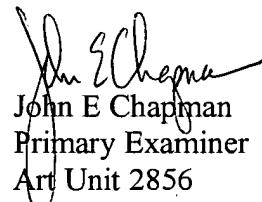
5. This application is in condition for allowance except for the presence of claims 15-20, 41-46 and 67-72 to an invention non-elected with traverse in the reply filed on December 18, 2003, and claims 21-26, 47-52, 73-79, 94-99, 114-119 and 134-140 to an invention non-elected without traverse in the reply filed on May 24, 2004. Applicant is required to cancel the noted claims or take other appropriate action (37 CFR 1.144).

The prosecution of this case is closed except for consideration of the above matter.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John E Chapman whose telephone number is (571) 272-2191. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hezron Williams can be reached on (571) 272-2208. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 2856

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John E Chapman  
Primary Examiner  
Art Unit 2856